

ESTTA Tracking number: **ESTTA635792**Filing date: **10/29/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Flop Happy LLC d/b/a FlipSidez		
Entity	LLC	Citizenship	Pennsylvania
Address	92 Savage Rd. Pottstown, PA 19465 UNITED STATES		

Attorney information	Shawn R. Farmer Muskin & Farmer LLC 100 W Main Street, Suite 205 Lansdale, PA 19446 UNITED STATES sfarmer@patentstrademarks.com Phone:2158538259
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Registration Subject to Cancellation

Registration No	4519317	Registration date	04/22/2014
Registrant	Topson Downs of California, Inc. 3840 Watseka Ave. Culver City, CA 90232 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2012/12/01 First Use In Commerce: 2012/12/01 All goods and services in the class are cancelled, namely: bottoms, denim pants and jeans


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	FLIPSIDEFLIPFLOPS; FLIPSIDEZ		
Goods/Services	Flip Flops, Footwear, and Retail Services.		

U.S. Application No.	85701357	Application Date	08/11/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FLIPSIDEZ
Design Mark	
Description of Mark	The mark consists of The mark consists of the following characters: FlipSidez The "F" is a styled character and is capitalized. All of the remaining characters are in Arial Rounded MT Bold Font. Only the "F" and the "S" are in upper case, all of the other characters are in lowercase. The mark has a slight arc to it, peaking in the middle of the mark.
Goods/Services	Class 025. First use: First Use: 2012/07/14 First Use In Commerce: 2012/07/25 Flip flops; Footwear
Attachments	FLIPSIDE Petition to Cancel Final 2.pdf(300127 bytes) 85701357#TMSN.png(bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Shawn R. Farmer/
Name	Shawn R. Farmer
Date	10/29/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. : 4,519,317
For the Mark : FLIPSIDE
Registered on : April 22, 2014

----- X
:
Flop Happy LLC :
:
Petitioner, : Cancellation No. _____
:
v. :
:
Topson Downs of California, Inc. :
:
Registrant. :
----- X

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION TO CANCEL

Flop Happy LLC, a Pennsylvania Limited Liability Company ("Petitioner")
having its principal place of business at 92 Savage Road, Pottstown, Pennsylvania 19465,
believes that it is damaged by the registration of the mark in U.S. Trademark Registration
No. 4,519,317 issued on April 22, 2014.

According to the Trademark Electronic Search System, the name and address of
the current owner of the Registration is Topson Downs of California, Inc. ("Registrant"),
having its principle place of business at 3840 Watseka Avenue, Culver City, California
90232.

The grounds for cancellation are as follows:

I. Petitioner's Marks

1. Petitioner is the owner of United States Trademark Application Serial No. 85/701,357 for FLIPSIDEZ ("Petitioner's First Mark") for Flip flops; Footwear ("Petitioner's Goods") in International Class 25.

2. Petitioner's First Mark has been used in connection with Petitioner's Goods since at least as early as July 2012.

3. Petitioner also owns common law rights to the FlipSideFlipFlops mark ("Petitioner's Second Mark") and the FLIPSIDEZ mark ("Petitioner's Third Mark") for Petitioner's Goods and related retail services ("Petitioner's Services"). Petitioner's Second Mark and Petitioner's Third Mark have both been used in connection with Petitioner's Services since at least as early as August 2011. Evidence establishing use of these marks, beginning on August 21, 2011, on the Etsy and Bonanza websites is attached hereto as **Exhibit A**.

5. The use of capitalization in the FlipSideFlipFlops mark on the Etsy and Bonanza websites indicates the separation between the different words contained within the mark, which was necessary due to the fact that these websites would not allow shop names that contain spacing. (See Exhibit A).

6.. As a result of Petitioner's widespread and longstanding use of the Petitioner's Second Mark and Petitioner's Third Mark in connection with Petitioner's Goods, Petitioner's Second Mark and Petitioner's Third Mark have acquired extensive goodwill, and are both well-known and recognized by consumers as identifying goods that are sold by, manufactured by, affiliated with or have been authorized by the Petitioner.

II. Registrant's Marks

- 7.. Registrant is the owner of United States Trademark Registration No. 4,519,317 for FLIPSIDE ("Registrant's First Mark") for bottoms, denim pants and jeans ("Registrant's Goods") in International Class 25.
8. The Application for Registrant's Mark was filed on June 25, 2012.
9. The date of first use of Registrant's Mark by Registrant on Registrant's Goods was December 1, 2012.
10. Registrant is also the owner of United States Trademark Application Serial No. 85/661,135 for FLIPSIDE ("Registrant's Second Mark") for tops, capri pants, hooded tops, hooded jackets, leggings, overalls, shirts, shorts, sweat shirts, sweat pants, sweat jackets, t-shirts, footwear, belts for clothing, hats ("Registrant's Second Mark Goods") in International Class 25.
11. The Application for Registrant's Second Mark was filed on June 25, 2012.
12. The Registrant's Second Mark has not been in use as of October 15, 2014.

III. Priority and Likelihood of Confusion

13. Registrant's First Mark consists of the identical 'flipside' term. The 'flipside' term is contained, in its entirety, within Petitioner's FlipSideFlipFlops mark. The remaining 'flipflops' part of this mark is a generic term for a certain type of footwear, making the 'flipside' term the most distinctive part of Petitioner's Second Mark. Similarly, Petitioner's Third Mark, FLIPSIDEZ, is identical to Registrant's First Mark, except for the additional 'Z' at the end of Petitioner's Third Mark. In terms of

sound, appearance and meaning, Registrant's First Mark is nearly identical to Petitioners Second and Third Marks.

14. Registrant's Goods are closely related to Petitioner's Goods and, upon information and belief, have been promoted and sold through the same channels of trade. Hence, Registrant's use of the mark FLIPSIDE in connection with bottoms, denim pants, and jeans, is likely to cause confusion, mistake or deception as to the source of origin of Registrant's Goods in that the public, the trade and others are likely to believe that Registrant's Goods are provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Petitioner. This is due to the fact that many sources offer both clothing and footwear under the same mark. The application for Registrant's Second Mark, though it is not the subject of the present petition, is also evidence of this fact and further proof that a likelihood of confusion exists between Petitioner's marks and Registrant's First Mark.

15. Based on the records of the USPTO, the Registrant's Priority Date or Application Date is June 25, 2012, which is subsequent to Petitioner's first use of Petitioner's Second Mark, which was at least as early as August 2011.

16. The continued existence of Registrant's FLIPSIDE registration casts a cloud upon Petitioner's right to continue to use and expand the use of both its FlipSideFlipFlops mark and its FLIPSIDEZ mark.

WHEREFORE, Petitioner requests that Registration No. 4,519,317 for the trademark FLIPSIDE be cancelled and that this Petition for Cancellation be sustained in favor of the Petitioner.

Please direct all correspondence to:

Shawn R. Farmer
Muskin & Farmer, LLC
100 W. Main St., Ste. 205
Lansdale, PA 19446

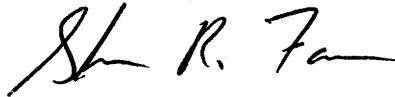
Petitioner herein appoints Shawn R. Farmer as its attorney to transact all business in the U.S. Patent and Trademark Office related to this matter.

Accompanying the electronic submission of this Petition for Cancellation is the required fee of \$300.

Respectfully submitted,

Flop Happy, LLC

By its Attorneys

A handwritten signature in black ink, appearing to read "Shawn R. Farmer". The signature is fluid and cursive, with the first name "Shawn" being more prominent.

Shawn R. Farmer
Muskin & Farmer, LLC
100 W. Main St., Ste. 205
Lansdale, PA 19446

Our Ref.: 2233-001

CERTIFICATE OF SERVICE

It is hereby certified that on October 29, 2014 a copy of the foregoing
PETITION TO CANCEL has been sent by first class mail, postage prepaid to the address
of Registrant:

Topson Downs of California, Inc.
3840 Watseka Avenue
Culver City, California 90232



Shawn R. Farmer

Exhibit A

[United States Patent & Trademark Office](#)
[TDR](#)
[TMIP](#)
[ID Manual](#)
[Design Codes](#)
[Patent Search](#)
[Toggl - Time tracking](#)
[Patent Forms](#)
[Add To Investigations](#)
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Flops

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About

Welcome to Flip Side Flip Flops where you can order personalized and custom flip flops with your words and designs die cut into the soles

What are Sand Imprint Flip Flops?

These are flip flops with recessed designs that are cut into the bottom of their soles, typically backwards mirrored, so that the designs create positive impressions sand or soft soil with every step! With our patent pending process, we specialize in custom producing these flip flops with no minimum order quantity.

Many Design Possibilities:

The designs you can choose to have custom cut into your flip flops are infinite! Promote your business! Leave your name or nickname with every step! They make excellent gifts, and are perfect for brides and grooms and as wedding favors. They're also popular with clubs, teams, schools, and many other...

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Born on April 4
Joined August 24, 2011

Favorite materials

EVA Foam, Rubber, Lino

Shop [See more](#)

Favorite items [See more](#)

Items I Love

7 items

Favorite shops [See more](#)

courtneyekorslop

10 items

AmmandalorianDesigns

77 items

Teams [See more](#)

Deakhy Things
334 members

Black Stedding
445 members

FlipSideFlipFlops' Profile - Bonanza x FlipSideFlipFlops on eBay

United States Patent a. TDR TM 3D Manual Design Codes Patent search Togg Time tracking Patent Forms Add To Investigations Connect QuickBooks Online Office 365


Seller on Bonanza Community Help Log in Register Cart

bonanza
everything but the ordinary

Browse by Category Search

Home > People > FlipSideFlipFlops' Profile

FlipSideFlipFlops' Profile




Rating: 100%
Total Feedback: 1
Branched since: 09/16/11
Last seen: 07/20/14
Send message
Shop 8 booth items

My Loves
No loved sellers or hand picked items chosen yet.

Who's Around?

- dealschoicejewelry**
Last seen here
See 35 booth items
Send quick-text
- DreamsOfCivilon**
Last seen here
See 814 booth items
- EpicEvent**
See 26 booth items
Send quick-text
- ITSourceDistribution**
Last seen here
See 4891 booth items
Send quick-text
- antijeweler**
Last seen here
See 1221 booth items
Send quick-text
- Smile_y_Save**
Last seen here
See 15730 booth items
Send quick-text

My badges




About me
I'm the quest type.

Community content

- Favorite types of items to buy**
Not yet entered
- Hand picked lists created**
None yet
- Forum messages posted**
None yet
- Show outside curated information**

Vicinity



Personal Endorsements of FlipSideFlipFlops
No personal endorsements have been submitted for FlipSideFlipFlops.

Say Hello To

- Carried1**
Joined 2 minutes ago
Welcome them aboard
- kloungsloest**
Joined about 1 hour ago
Welcome them aboard